

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JERRY DUNSON, et al.,

Plaintiffs,

v.

CORDIS CORPORATION, et al.,

Defendants.

Case Nos. [16-cv-03076-SI](#)

16-cv-03080-SI

16-cv-03082-SI

16-cv-03083-SI

16-cv-03085-SI

16-cv-03086-SI

16-cv-03087-SI

16-cv-03088-SI

16-cv-04012-SI

**ORDER FOR SUPPLEMENTAL
BRIEFING RE: CAFA JURISDICTION**

Defendant Cordis Corporation has removed nine separate state court actions to federal court, alleging jurisdiction pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d).¹ In each notice of removal, Cordis asserted that these cases were in the form of a mass action:

in which monetary relief claims of more than 100 persons are proposed to be tried jointly on the ground that the plaintiffs’ claims involve common questions of law or facts; the parties are of at least minimally diverse citizenship; the aggregate amount in controversy exceeds \$5,000,000; and at least one plaintiff puts more than \$75,000 in controversy, exclusive of interest and costs.

See Dkt. No. 1 (Notice of Removal).

These nine cases were assigned to nine different judges in this district. On July 27, 2016, the court in 16-cv-3080 issued a Referral for Purposes of Determining Relationship, pursuant to Local Rule 3-12(c). Defendants Cordis Corporation and Cardinal Health opposed the related case referral on the basis that “the parties are not substantially the same” and the “transactions and

¹ Cases 16-cv-03082, 16-cv-03083, 16-cv-03085, 16-cv-03086, 16-cv-03087 and 16-cv-03088 were removed on June 6, 2016. Case 16-cv-4012 was removed on July 15, 2016.

events are not substantially the same.” Dkt. No. 30, 3:16-cv-03076-SI. On August 4, 2016, the undersigned judge of the low-numbered case in the Referral, determined that the cases are related. Consequently, all nine actions are now pending before the undersigned.²

In the meantime, various motions have been filed in the various actions. Some plaintiffs filed motions to remand, which have since been re-noticed. *See* Dkt. Nos. 16 & 34, 3:16-cv-03080-SI; Dkt. Nos. 15 & 37, 3:16-cv-03083-SI; Dkt. Nos. 14 & 33, 3:16-cv-03085-SI; Dkt. No. 16 & 40, 3:16-cv-03086-SI; Dkt. Nos. 20 & 47, 4:16-cv-03088-SI. Defendants in some cases filed motions to dismiss, which some plaintiffs opposed with motions to stay; some of those stay motions have been granted or re-noticed. *See* Dkt. Nos. 7 (mot. to dismiss) & 18 (order), 3:16-cv-03076-SI; Dkt. Nos. 7 (mot. to dismiss) & 17 (mot. to stay) & 20 (stay order), 3:16-cv-03080-SI; Dkt. No. 7 (mot. to dismiss), 3:16-cv-03082-SI; Dkt. Nos. 7 (mot. to dismiss) & 16 (mot. to stay) & 38 (re-notice mot. to stay), 3:16-cv-03083-SI; Dkt. No. 7 (mot. to dismiss), 3:16-cv-03085-SI; Dkt. Nos. 7 (mot. to dismiss) & 17 (mot. to stay), 3:16-cv-03086-SI; Dkt. Nos. 16 (mot. to dismiss) & 26 (mot. to stay), 3:16-cv-03087-SI; Dkt. Nos. 7 (mot. to dismiss) & 21 (mot. to stay) & 26 (stay order), 3:16-cv-03088-SI. Defendant Cardinal Health filed a motion to dismiss in two cases on the basis of personal jurisdiction. *See* Dkt. No. 12 (mot. to dismiss), 3:16-cv-03086-SI; Dkt. No. 13 (mot. to dismiss), 3:16-cv-03088-SI. In addition, two judges, including the undersigned, have issued orders to show cause as to the basis of CAFA jurisdiction. *See* Dkt. No. 27, 3:16-cv-03076-SI; Dkt. No. 22, 3:16-cv-03082-SI.

To facilitate the orderly processing of these matters, all pending motions and case management conferences in the above-captioned cases are STAYED pending this Court’s ruling on whether there is federal jurisdiction over these cases.

² There is at least one other Cordis case in this district alleging a TrapEase IVC filter product defect, 4:16-cv-02500-JSW, *Cottrell v. Cordis Corporation et al.* That case was not included in the Referral for Purposes of Determining Relationship, and accordingly was not considered. It appears from the file, however, that jurisdiction over that case is premised on diversity, not CAFA.

Plaintiffs who wish to file a supplemental brief of no more than 10 pages on the question of federal jurisdiction may do so by August 11, 2016. Defendants who wish to file a response of no more than 10 pages may do so by August 16, 2016. A hearing on this matter is set for 10:00am August 19, 2016.

IT IS SO ORDERED.

Dated: August 5, 2016



SUSAN ILLSTON
United States District Judge